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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,503	07/06/2001	Patrick Remery	15675P351	3947

7590 07/05/2002

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EXAMINER

TREMBLAY, MARK STEPHEN

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 07/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/787,503

Applicant(s)

REMERY ET AL.

Examiner

Mark Tremblay

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

Applicant: Remery et al.

Filing date: 7/7/2001

***Claim Objections***

5        Claims 5-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may not depend from a multiple claim (claim 3). See MPEP § 608.01(n). Accordingly, the claims 5-9 will not be further treated on the merits.

***Claim Rejections - 35 USC § 112***

10        Claims 1-4 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

      Re claim 1, the terms "talk" and "so-called" are informal, non-idiomatic, vague, and indefinite. The word "type" is vague and indefinite.

      Re claim 2,

15        Re claim 4, "the interrogation" lacks antecedent basis. The claim as a whole suffers from unclear relationships between the various recited elements, to the point that it is not intelligible by the Examiner. The examiner is unable to reliably relate the portion of the claim beginning with "if" with the preceding portion. It may be that punctuation or conjunctive clauses are missing. Which counter is reset in which instance is unclear.

***Claim Rejections - 35 USC § 102***

20        The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

25        A person shall be entitled to a patent unless --

      (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

30        Claims 1-3 are rejected under 35 U.S.C. § 102(a) as being anticipated by EP 0829,830 to Hirokawa ("Hirokawa" hereinafter). Hirokawa discloses a process for managing an electronic transaction by means of a bank card having a microprocessor chip (IC card C), and of reading a

terminal (3) able to talk to said card, in which the reading terminal sends a signal (via IC Card reader writer 37) to said card which indicates thereto the amount of the transaction (S214) and in which said card compares this amount with a threshold transaction amount value (s217) and instigates a bearer authentication procedure (s220) when this amount is above said threshold, characterized in that, when this amount is below said threshold, said chip card compares with a threshold value the value of a counter (s218), the so-called aggregate of small accounts counter, which value it increments by the value of the amount of the transaction and in that a procedure for authenticating the bearer of the card (s220) is instigated by said card as a function of the result of this comparison (see especially figure 4).


#### *Remarks*

Due to the nature of the 35 U.S.C. 112 issues noted above with respect to claim 4, no prior art is being applied to claim 4 since the Examiner cannot ascertain, with a reasonable degree of certainty, exactly what the Applicant considers to be the invention claimed.

Applicant's attention is drawn to In re Steele, 134 USPQ 292, 295 (CCPA 1962), where an examiner was found to be in error in relying on speculative assumptions as a basis for a rejection. Considerable speculation, as to the structural relationships recited, and unsupported speculative assumptions, as to the scope of the claims, would need to be made to support a prior art rejection. Thus this type of rejection is inappropriate. Note M.P.E.P. § 706.03 (d) where it is stated that undue time should not be spent by the examiner trying to guess what applicant or applicant's attorney was trying to say in the claims.

#### *Voice*

Inquiries for the Examiner should be directed to Mark Tremblay at (703) 305-5176. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (703) 305-3503. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.

  
MARK TREMBLAY  
PRIMARY EXAMINER  
June 29, 2002